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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 NATIONAL LAWYERS' GUILD SAN
14 FRANCISCO CHAPTER, et al.,

No. C 08-5137 RS

15 Plaintiffs,

**JOINT STATUS REPORT
AND STIPULATION TO STAY
PROCEEDINGS; AND ~~PROPOSED~~
ORDER**

16 v.

17 U.S. DEPARTMENT OF HOMELAND
18 SECURITY, et al.,

Defendants.
19 _____/

20
21 WHEREAS, in an effort to narrow the issues before the Court,

22 1. The parties have entered into a series of stipulations to stay proceedings since April
23 24, 2009, to allow Defendants to conduct secondary searches and process potentially responsive
24 records, and to allow the parties to confer in an effort to resolve Plaintiffs' claims without the
25 Court's intervention. On October 30, 2009, as a result of those negotiations, Plaintiffs stipulated that
26 they did not contest the adequacy of the searches performed by Defendants DHS, DHS-OIG, or
27 CIS, or the propriety of the withholdings made by DHS-OIG; accordingly, pursuant to Rule
28 41(a)(1)(A)(ii), the parties filed a stipulation of dismissal of this action with prejudice with respect

1 to those Defendants. Negotiations continued with respect to the remaining Defendants: CBP,
2 EOIR, and ICE. Most recently, on April 4, 2011, the Court approved the parties' stipulations (a) to
3 further stay proceedings through and including May 31, 2011, and (b) to submit a joint report
4 advising the Court on the status of negotiations and/or a stipulation proposing a schedule to
5 govern further proceedings, no later than May 31, 2011; and

6 2. As a result of those negotiations, Plaintiffs have stipulated that they do not contest
7 either the adequacy of the searches performed, or the propriety of the withholdings made, by CBP,
8 EOIR, and ICE. The parties now agree that all merits issues in this case have been resolved; and

9 3. The parties are engaged in discussions about whether an award of attorney's fees
10 and costs is appropriate, and to that end, Plaintiffs have extended a proposal to Defendants. While
11 Defendants do not concede that Plaintiffs are entitled to recover any fees or costs in this case, and
12 reserve all rights to oppose any bill of costs or motion for attorney's fees, they are carefully
13 considering Plaintiffs' proposal. Although further negotiation may eliminate the need for judicial
14 resolution of any dispute over fees or costs, the parties anticipate that it will take several months
15 for their negotiations to conclude; and

16 WHEREAS it would minimize litigation costs and conserve judicial resources to permit the
17 parties to attempt to resolve any dispute over fees or costs without the Court's intervention,

18 IT IS HEREBY AGREED AND STIPULATED by and between the parties, through
19 undersigned counsel, subject to the approval of the Court, that:

- 20 1. Further proceedings in this case are stayed for a period of approximately 3 months,
21 through and including August 31, 2011, and
22 2. No later than August 31, 2011, the parties shall submit a joint report advising
23 the Court on the status of the above-mentioned negotiations and/or a stipulation
24 proposing a schedule to govern further proceedings.

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26 //

27 //

28 //

1 Dated: May 31, 2011

2 Respectfully submitted,

3 /s/ Lisa A. Davis
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19 **SIGNATURE ATTESTATION**

20 In accordance with General Order 45(X), I hereby attest that I have obtained Lisa A.
Davis's concurrence in the filing of this document.

21 /s/ Eric B. Beckenhauer
22 ERIC B. BECKENHAUER
23

24 **[PROPOSED] ORDER**

25 Pursuant to stipulation, **IT IS SO ORDERED.**

26
27 Dated: 6/1/11


28 RICHARD SEEBORG
United States District Judge